

## **Boston Borough Council**

Minutes of a meeting of the **Planning Committee** held in the Committee Room - Municipal Buildings, West Street, Boston, PE21 8QR on Tuesday 9th September 2025 at 10.00 am.

### **Present:**

Councillor David Middleton, in the Chair.

Councillors Alison Austin, Peter Bedford, Anton Dani, Stuart Evans, Andy Izard, Barrie Pierpoint, Claire Rylott, Lina Savickiene, Sarah Sharpe, Suzanne Welberry and Stephen Woodliffe.

In attendance:

Portfolio Holder - Infrastructure.

Officers:

Assistant Director – Planning & Strategic Infrastructure, Development Manager, Consultant Planning Officer, Principal Planning Officer, Senior Planning Lawyer and Democratic Services Officer.

## **6 Apologies for Absence**

Apologies for absence were received from Councillor David Scoot (Vice-Chairman).

## **7 Declarations of Interest**

Standing declarations of interest were received for all members of the Council who are also members of:

The South East Lincolnshire Joint Strategic Planning Committee:  
Councillors Peter Bedford and David Middleton.

The Internal Drainage Boards: Councillors Peter Bedford, David Middleton, Claire Rylott, and Suzanne Welberry.

## **8 Minutes**

The minutes of the meeting on the 1<sup>st</sup> July were approved as a correct record and signed by the Chairman.

## **9 Public Questions**

No questions were received.

## **10 B 25 0042 - Land south of Swineshead Road, Boston PE21 7JE**

Major – Full Planning Permission

Construction of a retail unit (Use Class E(a)) including car parking, landscaping and associated works

Land south of Swineshead Road, Boston PE21 7JE

The Chairman opened the item by welcoming Members and members of the public to the meeting. He introduced the application and invited officers to present the report.

The Consultant Planning Officer presented the application and made the following points:

The application was for the construction of a retail unit (Use Class E(a)), including car parking, landscaping and associated works with Marks and Spencer identified as the end user.

- The Consultant Planning Officer outlined the key elements of the proposal, including the size of the retail unit, the number and type of parking spaces, and the provision of landscaping and cycle parking.
- Members were informed of several late items:
- An amendment to the delivery hours condition, following consultation with Environmental Health, to allow deliveries on Sundays and bank holidays.
- Clarification that there was no planning history on the site itself.
- Confirmation that the proposal would create 70 jobs (full and part-time).
- Additional information regarding on-site and off-site biodiversity net gain.
- The Consultant Planning Officer also clarified that the Council's retail consultants had reviewed the application and agreed with the findings presented.

The officer concluded by confirming that the recommendation was for approval, subject to the conditions set out in the report (including the amended deliveries condition) and the completion of a Section 106 agreement.

The Committee received a presentation of slides, including satellite and roadside photos of the site, the site layout plan, the building elevation and floor plans and the landscaping plan, including native hedge and tree planting. The location was explained, including its proximity to the consented Aldi site (which had not yet been built) and the existing McDonalds site, which had been trading for some time. Access would be provided via the existing access road off Swineshead Road, which would serve the ALDI and already served McDonald's.

The section 106 contributions would include a £25,000 cycle access improvement contribution, £5,000 travel plan monitoring contribution and two bus stops and one bus shelter on the A52 Swineshead Road.

The Committee was addressed by Charlotte Perry and Phil Marsden on behalf of the applicant. In their respective presentations, they highlighted the following points:

- The proposed store would be well-located alongside existing retail uses, including the approved ALDI and Costa drive-through and the established McDonald's, forming a growing retail cluster.

- The application would deliver economic benefits. An independent assessment had shown that, while there would be some trade impacts, these were not likely to harm the vitality or viability of the town centre.
- The proposal would bring retail choice, secure the return of M&S to Boston, and generate investment and job creation in the area.
- Sustainable transport measures would be provided. The Highways Officer had confirmed that the network could safely accommodate the new store and that all planning policy tests were satisfied. The applicant would fund sustainable transport improvements, including a new bus stop, cycle facilities and EV charging points.
- Local producers and suppliers would supply the proposed store, as well as other M&S stores, including Lincolnshire Game Company, Staples Vegetables, Greenyard Frozen, Bakkavor and Dyson Farming. These Boston-based businesses employ over 2,000 people.
- The scheme would meet the sequential and impact tests required by planning policy. The design was described as modern and high quality, with landscaping, biodiversity gains and flood resilience measures incorporated. Residential amenity along Wortley's Lane would be protected for by a new acoustic screen.

The Committee sought clarification from the speakers on several issues, including:

- The potential impact on Boston town centre. Charlotte Perry advised that the town centre already had committed funding and investment, and that the application would not jeopardise this, as it represented a complementary retail offer. She explained that household surveys had identified existing M&S shoppers in the town and that the proposal help retain local expenditure. The Council's independent retail consultants, Stantec, had reviewed the assessment to ensure that all the planning policy tests had been met.
- Concerns regarding the potential for increased traffic congestion at the site, including wider issues with road capacity. Charlotte Perry confirmed that Lincolnshire County Council's highways department, the transport consultant, and the Borough Council's planning officers had all confirmed that the proposals would not have a severe impact on the existing network. It was noted that a high proportion of linked trips was expected between the proposed store and existing retailers, so a significant increase in journeys was not anticipated.
- The adequacy of public transport serving the site.
- The role of local food suppliers. Phil Marsden confirmed that, although he did not have information about the percentage of local produce that would be available at the store, M&S was already supplied nationwide by many of the local producers mentioned. He indicated that an increased number of M&S stores would mean increased orders for local providers.

- The location of bus stops serving the site was considered. Concerns were raised about their proposed location on the A52 Swineshead Road, with suggestions that a location within the development would be safer. The Consultant Planning Officer indicated that the location of bus stops could be secured through the Section 106 agreement, with further discussions to be held with Lincolnshire County Council as the highways authority. The Development Manager confirmed that the suggested alternative location would be considered as part of post-decision matters.

Committee deliberation continued after the Consultant Planning Officer confirmed that the Committee was being asked to consider the officer recommendation for approval, subject to the conditions (including an amendment to the deliveries condition to allow Sunday and bank holiday deliveries) and the Section 106 agreement for two new bus stops, a bus shelter, the cycle access improvement contribution, and the travel plan monitoring contribution.

Prior to the vote, the Development Manager confirmed that the recommendation was to approve the application, subject to the recommended conditions (including the amendment to condition sixteen to allow deliveries on Sundays and bank holidays) and the signing of a Section 106 agreement to secure two new bus stops and one bus shelter on the A52 Swineshead Road, a £25,000 cycle access improvement contribution, a £5,000 travel plan monitoring contribution, and off-site biodiversity net gain provision.

The recommendations were moved by Councillor Claire Rylott and seconded by Councillor Stephen Woodliffe.

**Resolved:**

That the committee approve the application in line with officer recommendations and subject to the conditions, outlined within the report, the additional conditions (outlined below), and signing of the Section 106 agreement.

**CONDITIONS:**

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

**Reason:** To conform with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in strict accordance with the application received 27/10/2023 and in accordance with the associated plans referenced:

- MEL-549-003 Rev P4 Detailed Soft Landscaping - Plot 4 M&S
- PM\_40\_50\_21\_0006 Rev P01 Proposed Elevations
- PM\_40\_50\_21\_0007 Rev P01 Proposed Roof Plan
- PM\_40\_50\_21\_0005 Rev P01 Proposed Ground Floor Plan
- PM\_40\_50\_21\_0004 Rev P04 Proposed Site plan
- PM\_40\_50\_21\_0001 Rev P02 Site Location Plan

**Reason:** To ensure that the development is undertaken in accordance with the approved details, and to comply with Policies 2, 3, 4, 28, 29 and 36 of the South East Lincolnshire Local Plan 2019.

**Pre-commencement conditions:**

3 Development may not begin unless a biodiversity gain plan has been submitted to and approved by the Local Planning Authority.

**Reason:** To comply with Schedule 7A of the Town and Country Planning Act (1990, as amended).

4 No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed before the development is used. The scheme shall:

- be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development;
- provide flood exceedance routing for storm event greater than 1 in 100 year;
- provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100-year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
- provide attenuation details and discharge rates which shall be restricted to no more than what would be the greenfield run-off rate of the undeveloped land;
- provide details of the timetable for and any phasing of implementation for the drainage scheme and
- provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.
- Retailing from the permitted development shall not be commenced until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full, in accordance with the approved details.

**Reason:** To ensure that the site can be adequately drained.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in paragraph 182 of the National Planning Policy Framework, 2024.

5 No development shall take place until details of the design, implementation, maintenance and management of foul water drainage works have been submitted to and approved in writing by the local planning authority. Thereafter, the development shall be undertaken in accordance with the approved details.

**Reason:** To ensure development would not result in unacceptable risk of pollution or harm to the environment or landscape.

This Condition is imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in paragraph 182 of the National Planning Policy Framework, 2024.

6 The development hereby permitted shall be undertaken in accordance with a Construction Management Plan and Method Statement that shall first be submitted to and approved in writing by the Local Planning Authority before development commences. The Plan and Statement shall indicate measures to mitigate the adverse impacts of vehicle activity and the means to manage the drainage of the site during the construction stage of the permitted development. It shall include;

- the on-site parking of all vehicles of site operatives and visitors;
- the on-site loading and unloading of all plant and materials;
- the on-site storage of all plant and materials used in constructing the development;
- wheel washing facilities;
- a strategy stating how surface water run off on and from the development will be managed during construction and protection measures for any sustainable drainage features. This should include drawings) showing how the drainage systems (temporary or permanent) connect to an outfall (temporary or permanent) during construction.

**Reason:** In the interests of the safety and free passage of those using the adjacent public highway and to ensure that the permitted development is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, the permitted development during construction.

This condition is imposed in accordance with paragraph 135 of the National Planning Policy Framework.

7 No development shall take place until a Construction Ecological Management Plan (CEMP) is submitted to and approved in writing by the local planning authority setting out the safeguards and appropriate working practices that will be employed to minimise adverse effects on biodiversity and ensure compliance with UK Wildlife Legislation. The details of the CEcMP will be informed by the final site design and ongoing ecological survey works [depending on the scope of works] but should include as a minimum:

- Development standoffs and safeguards for all retained habitats
- Construction timetables to avoid sensitive periods such as nesting bird season
- Pollution prevention measures with regards to Old Hammond Beck
- Vegetation management measures to minimise the risk to species such as terrestrial mammals and herpetofauna
- Best practice measures with regards to lighting, as to avoid adverse impacts upon protected/notable species
- Compliance with any specific mitigation measures that will be required to acquire a Development Licence for works affecting protected species [if required]

Thereafter, all site clearance and construction works shall be undertaken in accordance with the approved CEcMP.

**Reason:** To ensure conservation of local biodiversity.

This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National Planning Policy Framework, 2024.

**Conditions which apply during the course of and following completion of the development:**

8 Demolition/ground works/construction works/ deliveries and collections during the construction phase of the development, shall not take place outside the following hours:

- Monday to Friday 07.30 – 18.00hrs
- Saturday 08.00-13.00hrs
- There shall be no work on Sundays or Public Holidays

**Reason:** In the interests of highway safety and the amenity of nearby residents. This condition is imposed in accordance with paragraph 135 of the National Planning Policy Framework.

9 Before the proposed food store is brought into use, all of that part of the estate road and associated footways that forms the junction with Swineshead road and which will be constructed within the limits of the existing highway, shall be laid out and constructed to finished surface levels

in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority.

**Reason:** In the interests of safety, to avoid the creation of pedestrian trip hazards within the public highway from surfacing materials, manholes and gullies that may otherwise remain for an extended period at dissimilar, interim construction levels.

This Condition is imposed in accordance with Policy 3 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in the National Planning Policy Framework, 2024.

10 The development hereby approved shall not be brought into use until those parts of the approved Travel Plan that are identified therein as being capable of implementation before occupation shall be implemented in accordance with the timetable contained therein and shall continue to be

implemented for as long as any part of the development is brought into use.

**Reason:** In order that the permitted development conforms to the requirements of the National Planning Policy Framework, by ensuring that access to the site is sustainable and that there is a reduced dependency on the private car for journeys to and from the development.

This condition is imposed in accordance with section 9 of the National Planning Policy Framework.

11 No development above ground floor slab level of any part of the development hereby permitted shall take place until details of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning

Authority, including (where applicable):

- details of all brick, render and tiling (including details of the colour of render/paintwork to be used)
- details of all hard surfacing materials
- details of materials used for boundary treatments

The development shall be carried out in accordance with the approved details.

**Reason:** To ensure that the Local Planning Authority retains control over the external materials of construction of the development in the interests of the character and appearance of the development and the visual amenity of the area in which it is set.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and the provisions of the National Planning Policy Framework, 2024.

12 Notwithstanding the maintenance details submitted as part of the application before the first occupation of the development hereby permitted a schedule of landscape maintenance in perpetuity has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation, long-term design objectives, management responsibilities and maintenance schedules for all landscape areas. Thereafter, the approved landscape maintenance schedule shall be fully implemented within 6 months from the date of first approval or within the next available planting season (whichever is the sooner).

**Reason:** To ensure the proposed development does not have an adverse effect on the character and appearance of the area.

This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National Planning Policy Framework, 2024.

13 No boundary treatments shall be erected until detailed scaled drawings (section) of the hard boundary treatments to be erected have been submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments shall be erected before the development is first brought into use and thereafter retained in that form, notwithstanding the provisions of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking and re-enacting that Order with or without modification).

**Reason:** In the interests of the character and appearance of the development.



This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and the provisions of the National Planning Policy Framework, 2024.

14 Notwithstanding the submitted lighting details, before the development hereby permitted is brought into use details of any external lighting to be provided in association with the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the location of the lighting, the specification and LUX levels and the times when the external lighting will not be switched on. Only external lighting in accordance with approved details shall be provided on the application site. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) there shall be no other external lighting provided on the application site.

**Reason:** To ensure that the Local Planning Authority retains control over these matters, in the interests of the visual amenity of the overall development, to prevent light pollution and to ensure that the development is adequately lit. This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and the provisions of the National Planning Policy Framework, 2024.

15 The development hereby permitted shall be carried out in accordance with the measures set out in the Flood Risk Assessment by Hydrock Consultants Limited dated 19 December 2022 forming part of this planning application. In particular the following measures shall be fully implemented before the proposed food store is brought into use:

- Finished floor levels to be set no lower than 2.8m above the existing ground level
- Flood resilience and resistance measures to be incorporated into the proposed development as stated

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

**Reason:** To ensure that the development does not increase the risk of flooding or be at risk of flooding.

This Condition is imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, 2024.

16 Unless otherwise agreed in writing with the local planning authority proposed deliveries to the proposed store once opened must not take place outside the following hours:

- Monday to Saturday including public holidays: 07.00 – 23.00hrs
- Sunday: 08.00 - 18.00hrs

**Reason:** In the interests of residential amenity.

This Condition is imposed in accordance with Policy 3 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in the National Planning Policy Framework, 2024.

17 Before the proposed food store is brought into use a Landscape Ecological Management Plan (LEMP) should be submitted to and approved in writing by the Local Planning Authority setting out the detailed establishment and management of all on site compensation and enhancement measures. In accordance with Biodiversity Net Gain Best Practice Principles, and the principles of the Environment Act 2021, the LEMP should cover a period of 30 years from the date of commencement with provisions for long-term monitoring and contingency actions linked to the Biodiversity Net Gain objectives of the project. Thereafter the development shall be undertaken in accordance with the approved LEMP.

**Reason:** To ensure conservation of local biodiversity.

This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National Planning Policy Framework, 2024.

#### **INFORMATIVES NOTES FOR DECISION NOTICE**

1. In determining this application, the authority has taken account of the guidance in paragraph 38 of the National Planning Policy Framework 2024 in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.

2. Positive and Proactive Statement. In dealing with this application, the Council has worked with the applicant in the following ways: In such ways the Council has demonstrated a positive and proactive manner in seeking solutions to problems arising in relation to the planning application.

3. The foul drainage from this development is in the catchment of Frampton Water Recycling Centre which currently does not have capacity to treat the flows the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission.

4. This site is within the catchment of Frampton Water Recycling Centre (WRC), which currently lacks the capacity to accommodate the additional flows generated by the proposed development. However, Frampton WRC is included within our Business Plan as a named growth scheme with investment delivery planned between 2025-2030. To ensure there is no pollution or deterioration in the receiving watercourse due to the additional foul flows that would arise from the development Anglian Water recommend information is provided when responding to the relevant foul water planning condition.

5. Black Sluice Internal Drainage Board state that no person without the previous consent of the Board shall erect any building or structure (including a fence), whether temporary or permanent, or plant any tree, shrub, willow or other similar growth within 9 metres of the landward toe of the bank where there is an embankment or wall or within 9 metres of the top of the batter where there is no embankment or wall, or where the watercourse is enclosed within 9 metres of the enclosing structure.

6. All wild bird species are legally protected under the Wildlife and Countryside Act 1981 (as amended) from any form of disturbance between the onset of nest building and until such time as any dependent young have left the nest, principally from the beginning of March to the end of August.

7. In accordance with Section 59 of the Highways Act 1980, please be considerate of causing damage to the existing highway during construction and implement mitigation measures as necessary. Should extraordinary expenses be incurred by the Highway Authority in maintaining the highway by reason of damage caused by construction traffic, the Highway Authority may seek to recover these expenses from the developer.

8. All roads within the development hereby permitted must be constructed to an acceptable engineering standard. Those roads that are to be put forward for adoption as public highways must be constructed in accordance with the Lincolnshire County Council Development Road Specification that is current at the time of construction and the developer will be required to enter into a legal agreement with the Highway Authority under Section 38 of the Highways Act 1980. Those roads that are not to be voluntarily put forward for adoption as public highways, may be subject to action by the Highway Authority under Section 219 (the Advance Payments code) of the Highways Act 1980. For guidance, please refer to <https://www.lincolnshire.gov.uk>

9. The highway improvement works referred to in the above conditions 20 and 21 are required to be carried out by means of a legal agreement between the landowner and the County Council, as the Local Highway Authority. For further guidance please visit our website; [www.lincolnshire.gov.uk/highways-planning/works-existing-highway](http://www.lincolnshire.gov.uk/highways-planning/works-existing-highway)

10. Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections, Section 50 licences and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works. For further guidance please visit the Highway Authority's website via the following link: Traffic Management - <https://www.lincolnshire.gov.uk/traffic-management>

11. The existing ground level of the site must not be raised above the ground level of any surrounding land without further consultation with the Lead Local Flood Authority and

Local Planning Authority, to consider suitable mitigation measures to ensure that surface water flood risk is not created or increased to land adjacent to the permitted development.

12. Please note the comments made by Cadent Gas dated 6th February 2025 regarding the proximity of a cadent gas asset in the area.

13. Please note the triggers in the accompanying section 106 agreement in relation to matters such as biodiversity net gain and highway matters.

## **BNG APPLIES**

### **BIODIVERSITY NET GAIN**

#### **BNG1 BIODIVERSITY NET GAIN CONDITION**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition)” that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Boston Borough Council

#### **BNG3 Statutory exemptions and transitional arrangements**

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at <https://www.gov.uk/guidance/biodiversity-net-gain>.

#### **Irreplaceable habitat**

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

#### **Effect of Section 73(2D) of the 1990 Act**

Under Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where -

- (a) a biodiversity gain plan was approved in relation to the previous planning permission (“the earlier biodiversity gain plan”), and
- (b) the conditions subject to which the planning permission is granted:
  - (i) do not affect the post-development value of the onsite habitat as specified in the earlier biodiversity gain plan, and
  - (ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat within the meaning of regulations made under paragraph 18 of Schedule 7A, do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier biodiversity gain plan.

- the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) in relation to the planning permission.

The Meeting ended at 10.40 am.